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5 Walter A. Tormasi, #136062/268030C
6 New Jersey State Prison
7 Second & Cass Streets
8 P.O. Box 861
9 Trenton, New Jersey 08625-0861
10 Attorney for Plaintiff (Appearing Pro Se)

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14 UNITED STATES DISTRICT COURT
15 DISTRICT OF NEW JERSEY
16 TRENTON VICINAGE

17 WALTER A. TORMASI, : CIVIL ACTION
18 Plaintiff, :
19 v. : CASE NO.:
20 [1] MARCUS O. HICKS, New Jersey :
21 Department of Corrections (DOC) :
22 Commissioner; [2] JOHN FALVEY, : COMPLAINT (featuring
23 DOC Assistant Director of Legal : CERTIFICATION OF ENTIRE
24 Affairs; [3] JONATHAN GRAMP, : CONTROVERSY, DEMAND FOR JURY
New Jersey State Prison (NJSP) : TRIAL, and VERIFICATION)
Administrator; [4] RAYMOND :
ROYCE, NJSP Administrator; [5] :
DAVID RICHARDS, NJSP Associate :
Administrator; [6] AMY EMRICH, :
NJSP Assistant Superintendent; :
[7] FATHOM BORG, NJSP Legal :
Liaison; [8] IMAM JAMAL :
EL-CHEBLI, NJSP Chaplaincy :
Supervisor; [9] RABBI YEHUDA :
SPRITZER, NJSP Chaplain; [10] :
REV. DR. VICTOR M. LEE, :
Religious Issues Committee :
(RIC) Chairman; [11] WILLIE :
BONDS, RIC Member; [12] MERVIN :

1 GANESH, RIC Member; [13] MAJOR :
2 KELLER, RIC Member; [14] REV. :
3 DR. JOY LYNCH, RIC Member; [15] :
4 REV. ESTHER MAURICE, RIC :
5 Member; [16] ELEAZAR SPRATLEY, :
6 RIC Member; [17] FATHER DR. :
7 LONGINUS UGWUEGBULEM, RIC :
8 Member; and [18] IMAM ANWAR :
9 WRIGHT, RIC Member,
10 :
11 Defendants. :
12 :
13

14 Plaintiff Walter A. Tormasi, residing at New Jersey State
15 Prison, Second & Cass Streets, P.O. Box 861, Trenton, New
16 Jersey 08625-0861, complains against Defendants herein,
17 stating, under penalty of perjury, as follows:

18 INTRODUCTION

19 1. The present civil action alleges the violation of
20 Plaintiff's right to religious freedom (Count I) and equal
21 protection (Count II), as guaranteed by the First and Fourteenth
22 Amendments to the United States Constitution (enforceable
23 through 42 U.S.C. § 1983); as guaranteed by the Religious Land
24 Use and Institutionalized Persons Act (enforceable through 42
U.S.C. § 2000cc-2); and as guaranteed by Article I, Paragraphs
1 and 3, of the New Jersey Constitution (enforceable through
N.J. Stat. Ann. § 10:6-2d and 28 U.S.C. § 1367(a)).

25 2. The cause of action arose during Plaintiff's
incarceration at New Jersey State Prison in Trenton. Defendants
were State employees who were personally involved in violating

1 Plaintiff's constitutional and statutory rights.

2 3. As discussed below, Plaintiff, who practices Judaism,
3 sought to sanctify his living quarters with fragrance-infused
4 anointment oils. Such oils are not available from within
5 Plaintiff's prison facility. Plaintiff therefore requested
6 permission to purchase religious anointment oils from an outside
7 source. Defendants denied that request and thereby prevented
8 Plaintiff from practicing his anointment ritual.

9 4. Regarding his free-exercise and RLUIPA claims (Count
10 I), Plaintiff alleges that his Jewish beliefs are sincerely held
11 and that his need for anointment oils sprang from his
12 interpretation of Jewish Scripture, thus cloaking Plaintiff with
13 religious protection. Plaintiff also alleges that the denial
14 of anointment oils by Defendants unreasonably and unjustifiably
15 restricted his chosen method of religious practice.

16 5. Regarding his equal-protection claim (Count II),
17 Plaintiff alleges that Defendants subjected him to
18 unconstitutional disparate treatment. This is because
19 Defendants allowed at least one other Jewish inmate to purchase
20 religious oils from an outside source. Defendants, in other
21 words, treated Plaintiff differently from similarly situated
22 individuals seeking to exercise their religious rights.

23 6. To remedy the foregoing constitutional and statutory
24 violations, Plaintiff seeks the full measure of damages,

1 including punitive damages stemming from the reckless or callous
2 indifference to Plaintiff's rights. Plaintiff also seeks an
3 injunction mandating that Defendants allow him to purchase
4 religious anointment oils from an outside source.

5 JURISDICTION, VENUE, AND VICINAGE

6 7. This Court has jurisdiction over Plaintiff's federal
7 claims under 28 U.S.C. §§ 1331, 1343(a)(4), and 2000cc-2.

8 8. This Court has jurisdiction over Plaintiff's
9 associated state-law claims under 28 U.S.C. § 1367(a).

10 9. All acts complained of herein occurred within the
11 District of New Jersey, Trenton Vicinage, making that venue and
12 vicinage entirely proper (see 28 U.S.C. § 1391(b)(2)).

13 PARTIES

14 10. During the cause of action, Plaintiff Walter A.
15 Tormasi was in the custody of the New Jersey Department of
16 Corrections (DOC) and was confined at New Jersey State Prison
17 (NJSP) located at Second and Cass Streets in Trenton.

18 11. At all times mentioned herein, Defendants were
19 employed by the State of New Jersey and had implemented and/or
20 executed State functions (i.e., acted under color of law).

21 12. During the cause of action, Defendant Marcus O. Hicks
22 was the Commissioner of DOC, served as its Chief Executive
23 Officer (see N.J. Stat. Ann. § 30:1B-4), and was required to
24 adopt and implement "rules and regulations"; to determine "all

1 matters of policy"; to "correct and adjust the same"; and to
2 perform "such other functions as may be prescribed . . . by any
3 other law" (see N.J. Stat. Ann. §§ 30:1B-6e, -6g, and -6q).

4 13. During the cause of action, Defendant John Falvey
5 was the DOC Assistant Director of Legal Affairs and was
6 responsible for directing DOC employees on legal and policy
7 issues, including issues involving religious practices.

8 14. During the cause of action, Defendants Jonathan Gramp
9 and Raymond Royce were NJSP Administrators and were responsible
10 for "the proper conduct and management of the institution," "the
11 conduct of all employees," and "the care and treatment of the
12 inmates," said responsibilities to be discharged by them
13 "according to law and the rules and regulations of the
14 institution" (see N.J. Stat. Ann. §§ 30:4-4, -5, and -6).

15 15. During the cause of action, Defendant David Richards
16 was an NJSP Associate Administrator and was responsible for,
17 among other things, assisting with the management and
18 administration of NJSP regarding religious and other matters.

19 16. During the cause of action, Defendant Amy Emrich
20 was an NJSP Assistant Superintendent and was responsible for,
21 among other things, assisting with the management and
22 administration of NJSP regarding religious and other matters.

23 17. During the cause of action, Defendant Fathom Borg was
24 an NJSP Legal Liaison and was responsible for, among other

1 things, coordinating legal matters between inmates and staff and
2 redressing religious issues involving NJSP inmates.

3 18. During the cause of action, Defendant Imam Jamal
4 El-Chebli was an NJSP Chaplaincy Supervisor and was responsible
5 for, among other things, "coordinating and supervising the
6 religious activities of the correctional facility/unit and
7 ensuring that [governing religious] requirements . . . are
8 fulfilled" (see N.J. Admin. Code § 10A:17-6.3(a)).

9 19. During the cause of action, Defendant Rabbi Yehuda
10 Spritzer was an NJSP Chaplain and was responsible for "serving
11 as liaison between correctional facility[] authorities [and] the
12 inmates whose faiths are not represented in the correctional
13 facility" (see N.J. Admin. Code § 10A:17-6.4(a)(2)).

14 20. During the cause of action, Defendants Dr. Victor M.
15 Lee, Willie Bonds, Mervin Ganesh, Melinda Haley, Major Keller
16 (first name unknown), Rev. Dr. Joy Lynch, Rev. Esther Maurice,
17 Eleazar Spratley, Father Dr. Longinus Ugwuegbulem, and Imam
18 Anwar Wright were members of the DOC Religious Issues Committee
19 (RIC) and were responsible for honoring "freedom of religion"
20 and "religious rights"; "reviewing any restrictions thereof to
21 ensure that any such restrictions are reasonable and related to
22 penological interests"; adjudicating "appeals submitted by
23 inmates in regard to religious matters" and making "final
24 [administrative] decision[s]"; reviewing "any other

1 considerations or situations pertinent to religious issues"; and
2 "address[ing] and compl[ying] with provisions of State and
3 Federal laws regarding religious issues" (see N.J. Admin. Code
4 §§ 10A:17-6.6(c)(1), -6.6(c)(2), -6.6(c)(4), and -6.6(c)(5)).

5 21. In addition to having the above responsibilities,
6 Defendants were required to: (1) follow the laws of the United
7 States, including the First and Fourteenth Amendments and the
8 Religious Land Use and Institutionalized Persons Act; (2) follow
9 the laws of New Jersey, including Article I of the New Jersey
10 Constitution; and (3) take remedial action to minimize or
11 eliminate the harm caused by the violation of said laws.

12 22. Plaintiff sues Defendants in their individual capacity
13 for damages and their official capacity for injunctive relief.

FACTUAL BACKGROUND

15 23. Plaintiff is actively, sincerely, and faithfully
16 engaged in Jewish worship. However, for religious and
17 philosophical reasons, Plaintiff is not affiliated with the
18 Orthodox, Conservative, or Reform sects of Judaism. Plaintiff
19 is, instead, independently engaged in Jewish self-practice.

20 24. The Jewish Bible is the Torah. It forms the
21 foundation of Judaism. Just like Christians must follow the
22 Holy Bible, and just like Muslims must follow the Koran,
23 Plaintiff is beholden to the Torah. Plaintiff sincerely
24 believes, as do all faithful Jews, that the Torah is the law of

1 God as revealed to Moses and as recorded in the first five books
2 of the Hebrew Scriptures (said scriptural books consisting of
3 Genesis, Exodus, Leviticus, Numbers, and Deuteronomy).

4 25. Plaintiff is deeply committed to Judaism. For
5 example, as required under Jewish law, Plaintiff eats kosher
6 foods, observes the Sabbath, engages in daily prayers, undergoes
7 fasting, and celebrates all major Jewish holidays, including
8 Rosh Hashanah, Passover, Yom Kippur, and Hanukkah. Plaintiff
9 also studies the Torah for about one hour per day, with his
10 total biblical studies amounting to several thousand hours. In
11 addition, over the last few years, Plaintiff has read many
12 books, treatises, commentaries, and other publications regarding
13 Jewish theology. In short, Plaintiff is deeply committed to
14 Judaism and acts in conformity with that commitment.

15 26. Judaism has numerous commandments. Those commandments
16 are outlined in the Torah. Of particular relevance, one
17 commandment relates to the anointment of God's Tent of Meeting.

18 27. Specifically, in the Book of Exodus, God commanded his
19 prophet, Moses, to gather "choice spices," including "fragrant
20 cinnamon," in order to make "oil of sacred anointment" by using
21 the process of "compound[ing]" and "perfum[ing]" (Exhibit A
22 (Exodus 30:22-25)). God commanded Moses to utilize the
23 fragrance-infused oils to "anoint the Tent of Meeting" and "all
24 its utensils," thereby "sanctify[ing]" such items and making

1 "holy" whoever "touches them" (Exhibit A (Exodus 30:26-29)).

2 28. Relying on his interpretation of the foregoing Jewish
3 scripture, Plaintiff sought from prison officials "permission to
4 purchase, from an outside source, fragrance-infused religious
5 anointment oils" (Exhibit B, at page 1). Plaintiff's written
6 request, dated March 29, 2021, explained as follows:

7 I believe that the above Torah verses
8 [i.e., Exodus 30:22-29] apply directly to
my situation. I believe, in particular,
9 that my prison cell functions as God's Tent
of Meeting. I hold this belief because
meets with me. I also hold this belief
because my cell, like the Tent of Meeting
described in the Torah, is my temporary
11 abode (place of rest) pending my eventual
12 release from custody/enslavement.

13 In addition to believing that my cell
14 serves as God's Tent of Meeting, I believe
that I am obligated to perform the
15 anointment process originally entrusted to
Moses. This belief is based on my
interpretation of the Torah. Pursuant to
16 Jewish scripture, I believe that I descended
from Abraham/Moses. I also believe that I
must follow God's commandments (including the
17 anointment commandment), even if those
commandments were issued to others within
prior generations, such as Moses.

18 Given the above construction, I
19 sincerely believe that I must anoint my
20 prison cell and its utensils/furnishings with
21 sacred oils, doing so at least daily. The
current request is directed at exercising
22 this sincerely held religious belief.

23 Obviously, my daily anointment routine
24 will require large quantities of oil. My
prison cell measures 5 feet wide, 8 feet

1 long, and 7 feet high. In total, my walls
2 and ceiling feature over 200 square feet of
3 surface area. Because I intend to sanctify
4 those surfaces (as well as the surfaces of
all utensils/furnishings), I need to purchase
64 ounces of anointment oils per month to
cover my estimated daily consumption.

5 Although New Jersey State Prison offers
6 religious oils through its commissary
7 program, those oils do not meet the standards
8 outlined in the Torah. For one thing, the
9 oils on commissary are generic "prayer oils,"
which are designed to be applied to human
flesh during worship. Anointment oils, in
contrast, are intended to sanctify inanimate
objects (*i.e.*, God's Tent of Meeting and its
utensils/furnishings) and, according to the
Torah, "shall not be smeared on human flesh"
(Exodus 30:32 [Exhibit A]). Moreover,
anointment oils must contain certain "choice
spices" and be specially blended/perfumed to
have sanctifying characteristics (Exodus
30:22-25 [Exhibit A]). Because the oils sold
on commissary do not meet these important
religious standards, I must obtain my
anointment oils from an external supplier.

15 I respectfully request that my religious
needs be accommodated. Specifically, in
accordance with my sincerely held Jewish
beliefs, I request permission to purchase,
from an outside source, 64 ounces per month
of fragrance-infused anointment oils. Please
18 approve this request as soon as possible.

19 29. Plaintiff incorporates and repeats all paragraphs of
his above-quoted letter (Exhibit B) as though such paragraphs
20 were set forth as freestanding factual allegations.

22 30. Plaintiff mailed his above-quoted letter to the DOC
23 Religious Issues Committee and to Defendants Marcus O. Hicks,
24 John Falvey, Jonathan Gramp, David Richards, Amy Emrich, Fathom

1 Borg, Imam Jamal El-Chebli, Rabbi Yehuda Spritzer, Rev. Dr.
2 Victor M. Lee, Willie Bonds, Mervin Ganesh, Milinda Haley, Major
3 Keller, Rev. Joy Lynch, Rev. Esther Maurice, Eleazar Spratley,
4 Father Dr. Longinus Ugwuobulem, and Imam Anwar Wright.

5 31. Plaintiff's mailing of his above-quoted letter to said
6 Defendants is memorialized by the attached Postage Remits
7 (Exhibit C), all of which were signed/approved by prison staff.

8 32. To date, Defendants failed to grant Plaintiff
9 permission to purchase anointment oils from an outside source,
10 thereby preventing Plaintiff from anointing God's Tent of
11 Meeting (his prison cell) and its utensils/furnishings.

12 33. During the cause of action, Defendants permitted at
13 least one other Jewish inmate at NJSP (namely, Zion'Eliyah
14 Yah'Torah, SBI No. 440122B) to purchase religious oils from an
15 outside source. In his above-quoted letter, dated March 29,
16 2021, Plaintiff "insist[ed] on equal treatment[] and . . .
17 object[ed] to any discriminatory barriers preventing [him] from
18 performing [his] anointment ritual" (Exhibit B, at page 3).

19 34. In refusing to allow Plaintiff to purchase anointment
20 oils from an outside source, Defendants did not dispute that
21 Plaintiff's religious beliefs were sincerely held or that his
22 need for anointment oils sprang from his interpretation of
23 Jewish Scripture (see Exhibits F, H, I, and J). Nor did
24 Defendants dispute that they discriminated against Plaintiff by

1 allowing another Jewish inmate to purchase religious oils from
2 an outside source (see Exhibits F, H, I, and J).

3 35. Notably, in their decisions denying Plaintiff's
4 request, Defendants insisted that Plaintiff purchase oils from
5 NJSP's commissary (see Exhibits F, H, I, and J). Plaintiff
6 responded (see Exhibit I), explaining: "For the reasons stated
7 in my memorandum dated March 29, 2021, the prayer oils on
8 commissary do not meet my religious standards. That is why I
9 requested to purchase anointment oils from an outside source."

10 36. Thus, given Plaintiff's above-quoted response (Exhibit
11 I) and his letter dated March 29, 2021 (Exhibit B), said letter
12 attached to Plaintiff's numerous inquiries/grievances (Exhibits
13 D, F, G, and I), Defendants knew that the religious oils offered
14 on NJSP's commissary were religiously inadequate.

15 37. Moreover, given this Court's rejection of qualified
16 immunity in an oils-related lawsuit, as well as this Court's
17 issuance of an injunction requiring DOC/NJSP officials to allow
18 another Jewish inmate to purchase religious oils from an outside
19 source (see Exhibits K and L), Defendants knew that their
20 conduct violated Plaintiff's clearly established rights.

21 38. Plaintiff suffered injury, as well as an undue
22 burden, through the actions or inactions of Defendants. This is
23 because Plaintiff was, and continues to be, prevented from
24 anointing God's Tent of Meeting (his prison cell) and its

1 utensils/furnishings, as mandated by the Torah.

2 39. Before bringing suit against Defendants, Plaintiff
3 exhausted all administrative remedies extended to him (see
4 Exhibits D, E, F, G, H, I, and J), with his final-level appeal
5 being denied by Defendant Raymond Royce (see Exhibit I).

6 COUNT I - VIOLATION OF FREEDOM OF RELIGION

7 40. Through their actions or inactions, Defendants
8 prevented Plaintiff from receiving anointment oils, violating
9 Plaintiff's right to religious freedom, as guaranteed by the
10 First Amendment to the United States Constitution (enforceable
11 through 42 U.S.C. § 1983); as guaranteed by the Religious Land
12 Use and Institutionalized Persons Act (enforceable through 42
13 U.S.C. § 2000cc-2); and as guaranteed by Article I, Paragraph
14 3, of the New Jersey Constitution (enforceable through N.J.
15 Stat. Ann. § 10:6-2d and 28 U.S.C. § 1367(a)).

16 41. In violating Plaintiff's rights in the manner alleged,
17 Defendants acted with reckless or callous indifference, thus
18 exposing Defendants to individual punitive damages.

19 COUNT II - VIOLATION OF EQUAL PROTECTION

20 42. Plaintiff belongs to the legally protected class of
21 Jewish inmates desiring religiously suitable and religiously
22 necessary fragrance-infused oils for worship purposes.

23 43. During the cause of action, Defendants discriminated
24 against Plaintiff by permitting one or more similarly situated

individuals within Plaintiff's protected class to purchase fragrance-infused religious oils from an outside source.

44. Through their actions or inactions, Defendants subjected Plaintiff to discrimination, violating Plaintiff's right to equal protection, as guaranteed by the Fourteenth Amendment to the United States Constitution (enforceable through 42 U.S.C. § 1983); and as guaranteed by Article I, Paragraph 1, of the New Jersey Constitution (enforceable through N.J. Stat. Ann. § 10:6-2d and 28 U.S.C. § 1367(a)).

45. In violating Plaintiff's rights in the manner alleged, Defendants acted with reckless or callous indifference, thus exposing Defendants to individual punitive damages.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that the Court issue judgment against Defendants, as follows:

A. declaring that Defendants violated Plaintiff's right to religious freedom (as alleged in Count I) and Plaintiff's right to equal protection (as alleged in Count II);

B. injunctive relief requiring Defendants or their successors to allow Plaintiff to purchase, from an outside source, 64 ounces per month of religious anointment oils;

C. compensatory damages in the amount of \$1 million, to be assessed against all Defendants jointly and severally;

D. punitive damages in the amount of \$5 million, to be

1 assessed against all Defendants qualifying therefor;

2 E. costs for bringing suit; and

3 F. such other relief as the Court deems proper.

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6 Walter A. Tormasi

7 Dated: March 16, 2022

8 CERTIFICATION OF ENTIRE CONTROVERSY

9 Pursuant to L. Civ. R. 11.2, Plaintiff hereby certifies
that this matter constitutes the entire controversy.

10 

11 Walter A. Tormasi

12 Dated: March 16, 2022

13 DEMAND FOR JURY TRIAL

14 Pursuant to Fed. R. Civ. P. 38(b)(1), Plaintiff hereby
demands trial by jury regarding all factual issues.

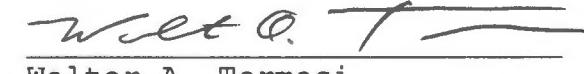
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16 Walter A. Tormasi

17 Dated: March 16, 2022

18 VERIFICATION

19 I hereby verify, under penalty of perjury pursuant to 28
U.S.C. § 1746, that the above facts are true and that the
accompanying exhibits are genuine and authentic reproductions.

20 

21 Walter A. Tormasi

22 Dated: March 16, 2022